

FILED
CLERK U.S. DISTRICT COURT

11 JUL 01 AM 11:10

Roy Cooper
North Carolina Attorney General
Edwin M. Speas, Jr.
Chief Deputy Attorney General
Tiare B. Smiley
Special Deputy Attorney General
James Peeler Smith
Special Deputy Attorney General
Attorneys for Defendant-Intervenors,
State of North Carolina, et al.
Post Office Box 629
Raleigh, North Carolina 27602
Telephone: (919) 716-6900
Facsimile: (919) 716-6763

Jathan W. Janove
Utah Bar No. 3722
Local Counsel for Defendant-Intervenors,
State of North Carolina, et al.
Janove Baar Associates, L.C.
9 Exchange Place, Suite 900
Salt Lake City, UT 84111
Telephone: (801) 530-0404 ext. 230
Facsimile: (810) 530-0428

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

STATE OF UTAH, *et al.*,
Plaintiffs,

v.

DONALD L. EVANS, *et al.*,
Defendants,

and

STATE OF NORTH CAROLINA, *et al.*,
Defendant-Intervenors.

Case No. 2:01-CV-292G

NORTH CAROLINA
INTERVENORS'
MOTION TO DISMISS AND
FOR SUMMARY JUDGMENT

25

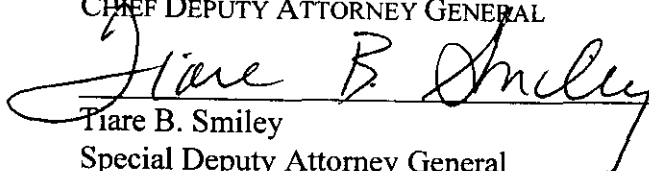
Now Come North Carolina Intervenor and, pursuant to Fed. R. Civ. P. 12(b)(6) and 56 and DUCivR 56-1, respectfully move the Court to dismiss and for summary judgment on the grounds that:

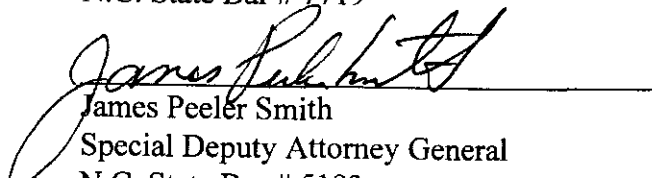
1. Plaintiffs' request for a recalculation of the 2000 Census and a new apportionment is barred by the doctrine of laches.
2. The Census Bureau's use of the statistical method of imputation in the 2000 census does not violate § 195 of the Census Act, 13 U.S.C. § 1, *et seq.*
3. The Census Bureau's use of the statistical method of imputation in the 2000 census does not violate Art. 1, § 2, cl. 3 of the Constitution.

This the 10th day of July, 2001.

ROY COOPER
NORTH CAROLINA ATTORNEY GENERAL

EDWIN M. SPEAS, JR.
CHIEF DEPUTY ATTORNEY GENERAL


Tiare B. Smiley
Special Deputy Attorney General
N.C. State Bar # 7719


James Peeler Smith
Special Deputy Attorney General
N.C. State Bar # 5193

North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
Telephone: (919) 716-6900

Attorneys for Defendant-Intervenor
State of North Carolina, et al.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **North Carolina Intervenor's Motion to Dismiss and for Summary Judgment** have been served by Federal Express, Priority Overnight delivery, next business day, addressed as follows:

Mark L. Shurtleff
Attorney General of Utah
Raymond A. Hintze
Chief Civil Deputy Attorney General
J. Mark Ward
Assistant Attorney General
236 State Capitol Building
Salt Lake City, Utah 84114
Telephone: (801) 538-1191

Gene C. Schaerr
Michael S. Lee
Jay T. Jorgensen
SIDLEY & AUSTIN
1722 Eye St. NW
Washington, DC 20006

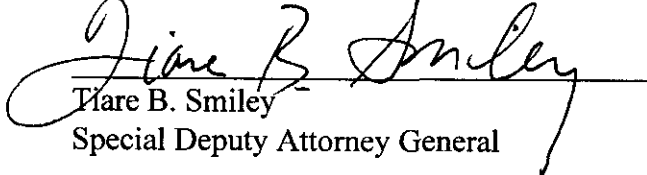
Attorneys for State of Utah, et al.

This the 10th day of July, 2001.

Stuart E. Schiffer
Deputy Assistant Attorney General
Sandra M. Schraibman
Amy M. Allen
Carol Federighi
Attorneys, U. S. Department of Justice
Civil Division, Federal Programs Branch
901 E. St. NW Room 918 (20004)
P. O. Box 883
Washington, D.C. 20044
Telephone: (202) 514-4523

*Attorneys for Donald L. Evans
and William G. Barron*

ROY COOPER
NORTH CAROLINA ATTORNEY GENERAL


Tiare B. Smiley
Special Deputy Attorney General